HIGH COURT OF CHHATTISGARH AT BILASPUR

W. P.(S) No. 6050 of 2006

Petitioners

1. Ku. Jatro Bhagat, S/o Late Shri *Bondiya Ram Bhagat, aged about* 29 years, resident of Village Tolma (Lailunga), District – Raigarh (C.G.).
2. Ku. Prabha Bhagat, D/o Shri *Bairangi Ram Bhagat, aged about* 22 years, resident of Dipika Colony, Gevra Project, Korba, District Korba (C.G.)
3. Ku. Yashoda Bhagat, D/o Shri Bairangi Ram Bhagat, aged about 25 years, resident of Dipika Colony, Korba, District Korba (C.G.)

Versus

Respondents

1. State of Chhattisgarh, through *Secretary, Department of Health,* D. K. S. Bhawan, Mantralaya, Raipur (C.G.).
2. Chief Medical & Health Officer, Korba, District Korba (C.G.)

WRIT PETITION UNDER ARTICLES 226 OF THE COSTITUTION OF INDIA

SB: Hon'ble Mr. Justice **Satish K. Agnihotri**

Shri A. K. Tiwari, Advocate for the petitioners.

Shri V. V. S. Murthy, Deputy Advocate General with Miss Deepali Pandey, Panel Lawyer for the respondents..

ORDER

(Passed on this 18th day of April, 2007)

1. The petitioners, by this petition, have impugned the order dated 1.9.2006 (Annexure P/4), whereunder the petitioners were suspended on the ground that the petitioners have not obtained A.N.M. (Auxiliary Nursing Midwife) training for 18 months and they have obtained Para-Medical Midwifery Course for one year, and the order dated 7.10.2006 (Annexure R/3) whereby the appointment of the petitioners was cancelled.

2. The indisputable facts in nutshell are that the petitioners were appointed vide order dated 22.3.2006 (Annexure P/2) as Multipurpose Health Worker, pursuant to the advertisement dated 26.9.2005 (Annexure P/1), inviting applications from all eligible candidates. The appointment of the petitioners was for a period of one year. In the meantime, the services of the petitioners were placed under suspension vide order dated 1.9.2006 and thereafter vide order dated 7.10.2006 they were terminated from service. The petitioners have challenged the said orders in this petition.

3. Shri Anand Kumar Tiwari, learned counsel appearing for the petitioner, would submit that the agreement as well as terms and conditions of the advertisement, does not provide for A.N.M. training for 18 months and the petitioners have submitted the required training certificate. The minimum qualification as required, according to the advertisement was, Higher Secondary or 10+2 with Family Health Worker Training Certificate. The appointment letter also does not indicate that the petitioners were required to submit certificate for A.N.M. training for a period of 18 months. Thus, the impugned order dated 1.9.2006 and 7.10.2006 are contrary to the terms and conditions of the advertisement and appointment order. The same deserves to be quashed on the ground of violation of the principles of natural justice also.

4. Shri V. V. S. Murty, learned Deputy Advocate General with Miss Deepali Pandey, Panel Lawyer, appearing for the respondents, per contra, would submit that the State Level Review Meeting, held on 22.8.2006 had decided to have A.N.M. training for 18 months for appointment of Multipurpose Health Worker. The petitioners do not possess the required training certificate, thus, the impugned orders passed are just and proper.

5. Having heard learned counsel for the parties and having perused the documents appended to the petition and return, it is evident that the State Level Review Meeting took place on 22.8.2006, after five months from the date of appointment i.e. 23.2.2006. Any decision taken in the meeting dated 22.8.2006 cannot be made applicable retrospectively to those employees, who have been appointed in accordance with the advertisement and on terms and conditions as specified in the appointment order.

6. Admittedly, there was no requirement of A.N.M. Training Certificate for 18 months in the advertisement and the appointment of the petitioners were also made after proper selection, pursuant to the open invitation made in the advertisement. Thus, the impugned orders dated 1.9.2006 and 7.10.2006, which have been passed without any basis or any legal authority, deserve to be quashed.

7. As a result, in view of the reasons mentioned herein above, the petitioners are entitled to complete the period of appointment. Since the period of time of the appointment has been over during the pendency of this case, the petitioners are entitled to consequential reliefs of back wages for the said period. The petition is accordingly allowed.

Sd/-
Satish K. Agnihotri
Judge

Thakur